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Total Number of Pages in This Submission

Application Number	10/628,991
Filing Date	7-29-2003
First Named Inventor	Mau-Song Chou
Art Unit	1743
Examiner Name	Yelena G. Gakh
Attorney Docket Number	NGC-00089 (000342-804)

ENCLOSURES (Check all that apply)

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<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
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<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Warn, Hoffmann, Miller & Ozga, P.C.		
Signature			
Printed name	John A. Miller		
Date	2-19-07	Reg. No.	34,985

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Application No.: 10/628,991
Filing Date: July 29, 2003
Applicant: Mau-Song Chou
Group Art Unit: 1743
Examiner: Yelena G. Gakh
Title: REMOTE DETECTION AND ANALYSIS OF CHEMICAL
AND BIOLOGICAL AEROSOLS
Attorney Docket: NGC-00089 (000342-804)

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REQUEST FOR SUPERVISOR REVIEW

Sir:

Applicant filed their Appellant's Brief on November 21, 2006 appealing the Examiner's Second Non-Final Rejection mailed November 3, 2006. The Examiner mailed a Notification of Non-Complaint Brief on January 25, 2007 checking the box for Section 4 stating that the Brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the Appeal. Further, the Examiner provided the following comments under Section 10 on a Continuation Sheet.

Continuation of 10. Other (including any explanation in support of the above items): The brief is deficient because independent claims 1 and 21 do not recite any elements besides a radiation source for heating a cloud and a spectrum analyzer for analyzing emission spectrum from the cloud. Neither emissions collection telescope 16, nor lens 22, is

recited in claims 1 and 21. The telescope is recited in dependent claim 7, and the lens is not recited in any claims. The claims do not recite "passive emissions", just "emissions from the cloud", and it is not apparent, as to what the "passive emissions" are. Description of the apparatus functioning is not relevant to the subject of the claimed invention. Independent claims 8 and 24 do not recite fans. The fan is recited in dependent claim 10. Claims 8 and 24 do not recite a laser. The laser is one of the options of the radiation source recited in dependent claims 5, 14, 23 and 26. The operation of the apparatus provided in the Summary is not a claimed subject matter. The Summary does not contain references for all structural elements recited in independent and dependent claims to the corresponding pages and line numbers of the specification.

Applicant respectfully submits that the Notification of Non-Compliant Appeal Brief is improper, and that Applicant has fully complied with Section 4. Particularly, Applicant has identified in the Summary of Claimed Subject Matter section of the Brief each element in the independent claims 1, 8, 21 and 24 by reference number and section in the specification. Applicant submits that additional description in the Summary section of the Brief directed to elements not found in the independent claims is not precluded by 37 CFR § 41.37(c)(1) and does not make the Summary section improper.

In the Continuation section of the Notification, the Examiner refers to certain items that allegedly make the Brief deficient, such as the specificity of the radiation source, the spectrum analyzer, passive emissions, fans, etc. Applicant submits that some or all of these items go to the merits of the §112, second paragraph, rejections as discussed in the Brief. Applicant submits that the Examiner's holding that the Brief is deficient because of the scope and language of what is recited in the claims is improper.

Applicant respectfully submits the Examiner has made and maintained some questionable rejections in this application. Applicant has filed a detailed Appeal Brief

challenging these rejections. Applicant respectfully submits that they are entitled to an Examiner's Answer in response to their Brief. It is respectfully requested that the Notice of Non-Compliant Appeal Brief be withdrawn, and an Examiner's Answer be issued.

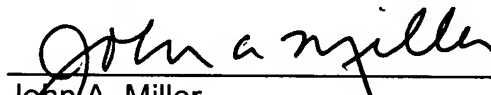
Respectfully submitted,

**WARN, HOFFMANN, MILLER
& OZGA, P.C.**

Attorneys for Appellant(s)

Date: _____

2/19/07



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